

TRANSCRIPT

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

CIVIL ACTION NUMBER: 04-11924-RGS

IAN J. BROWN, JAMES BROWN AND BARBARA BROWN,
Plaintiffs,

VS

UNITED STATES OF AMERICA, VERIZON NEW ENGLAND,
INC. and BOSTON EDISON COMPANY d/b/a NSTAR
ELECTRIC,

Defendants.

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30(b)(6) DEPOSITION OF U.S. NAVY BY  
ARTHUR R. HAYES, III, taken on behalf of Verizon  
New England, Inc., pursuant to the applicable  
provisions of the Massachusetts Rules of Civil  
Procedure, before Ayako Odanaka, Notary Public,  
Certified Shorthand Reporter and Registered  
Professional Reporter within and for the  
Commonwealth of Massachusetts, at the Offices of  
Prince, Lobel, Glovsky & Tye, LLP, 585  
Commercial Street, Boston, Massachusetts, on  
April 28, 2005, at 11:14 a.m., as follows:



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1 tract.

2 Q. Okay. And the south side of  
3 Hartwell Road; is that fair to say?

4 A. South side of Hartwell Road.

5 Q. So as far as the Navy is concerned,  
6 speaking through you, the area where pole  
7 Number 37 is located, or at least was  
8 located on January 4th, 2002, that area  
9 both on the north and south side of  
10 Hartwell Road was owned by the Navy?

11 A. Yes.

12 Q. Now, sir, in regard to Exhibit 2,  
13 you've told us several times that this  
14 drawing or map came from a mylar in the  
15 Navy's records; is that correct?

16 A. That's correct.

17 Q. Is it fair to say that you yourself  
18 added something to this map in preparation  
19 for this deposition?

20 A. Yes, I did.

21 Q. And tell us what this was, sir.

22 A. Approximate location of utility  
23 pole Number 37.

24 Q. And again, this Exhibit 2



1 demonstrates that pole Number 37 was  
2 located on land owned by the Navy.

3 A. Yes.

4 Q. And that's true as of January 2nd,  
5 2002.

6 A. I don't think this is dated. I  
7 can't really say that.

8 Q. When you say "this," you're  
9 pointing to Exhibit 4?

10 A. Exhibit 4.

11 Q. Just bear with me a moment. I'm  
12 just about finished.

13 And you've told us that the Navy  
14 owns a section of Hartwell Road,  
15 specifically the section that runs through  
16 the gray area with the green border around  
17 it, which is part of Exhibit 3; is that  
18 right?

19 A. That's correct.

20 Q. And is it fair to say that the  
21 Navy has owned that -- Strike that.

22 So the Navy or Air Force had owned  
23 that land in January 4th of 2002.

24 A. Navy.



1 Q. Is it fair to say that -- Well,  
2 strike that.

3 For how long has the Navy owned  
4 that land, that is where the Hartwell Road  
5 is within that green bordered area on  
6 Exhibit 3?

7 A. Since March, 1977.

8 Q. And before March of 1977, is it  
9 fair to say that the Air Force owned that  
10 section of Hartwell Road?

11 A. That's correct.

12 Q. Is it fair to say that the Air  
13 Force owned that section of Hartwell Road  
14 since approximately 1952?

15 A. That's correct.

16 MR. CHARNAS: That's all I  
17 have. Thank you, sir.

18 THE WITNESS: You're  
19 welcome.

20 MR. CALLAHAN: Just have a  
21 few questions.

22 EXAMINATION

23 BY-MR. CALLAHAN:

24 Q. Where is your office located?



1 States of America, but upon the express  
2 condition that the Commonwealth of  
3 Massachusetts shall retain concurrent  
4 jurisdiction with the United States of  
5 America in and over said lands.

6 A. That's right.

7 Q. Can you tell me what that means?

8 A. Basically the government is  
9 responsible for placing fire protection but  
10 the commonwealth reserves the right to  
11 still serve due process if they have to go  
12 on the property to arrest somebody for a  
13 crime.

14 Q. And that relates to the land that  
15 was transferred -- Strike that.

16 That particular legend that we were  
17 just discussing relates to the transfer of  
18 about 36 acres from the Air Force to the  
19 Navy.

20 A. Yes.

21 Q. Back in 1977, I believe.

22 A. Correct.

23 Q. Are you aware of any restrictions  
24 that the Navy has placed upon travel by



1 the general public over the portion of  
2 Hartwell Road that falls within the tract  
3 identified on Exhibit 2?

4 A. No.

5 Q. Have you, in the course of  
6 preparing for this deposition or in your  
7 review of the file, the files relating to  
8 this property, have you seen any records  
9 relating to the installation of a  
10 guardrail along Hartwell Road?

11 A. No, I have not.

12 Q. Would there be any records that  
13 you're aware of -- Strike that.

14 MR. CHARNAS: Can we go off  
15 the record for a second?

16 MR. CALLAHAN: Sure.

17 (Discussion off the record).

18 BY MR. CALLAHAN:

19 Q. Are you aware, Mr. Hayes, of any  
20 records obtained or kept by the Navy,  
21 which show whether or not the guardrail  
22 along Hartwell Road was in existence at  
23 the time the Navy acquired its right title  
24 and interest in the property?

